IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1148 OF 2004
IN
SECOND APPEAL NO. 977 OF 2004

Smt. Kaushallayya Purshottam
Rangrej and others ...Applicants

Versus

Dattusa Vithalsa Gangji & Ors ...Respondents

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Mr. G.S. Godbole, Advocate for the Applicants

Mr. A.A. Valasangkar with P. J. Das Advocate for Respondent Nos. 1 to 5 and 7.

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CORAM: A.S. OKA, J.
DATED: 12TH JANUARY, 2005

P.C.:-

1. Rule. Shri. Das waives service of Respondent Nos. 1 to 5 and 7.

2. Heard Shri. Godbole, the learned counsel for the Applicants and Shri. Valasangkar appearing for Respondent Nos. 1 to 5 and 7. Decree passed by the appellate Court is for possession of the immovable property. According to the Applicants there was an agreement for sale of suit property executed in their favour for total consideration of Rs.45,000/- and the Applicants have paid Rs.5,000/-.

3. Shri. Valsangkar while opposing the application for stay submitted that the property in question is situated in the heart of city of Solapur and if the

possession of the Applicants is to be protected, they should deposit a reasonable amount in the trial Court so that the claim of the Respondents is protected. Considering the facts and circumstances of the case I pass the following order:-

. The execution and operation of clause Nos. 4 to 9 of the operative part of the decree of the Appellate Court will remain stayed till the disposal of the appeal subject to following conditions:-

i) The Appellants/Applicants will deposit in the trial Court a sum of Rs.40,000/- (Rupees Forty thousand only) (if not deposited earlier) within a period of eight weeks from today. If no compliance is made within the stipulated time, the order of stay will stand vacated without further reference to the Court. If the Amount is deposited by the Appellants/ Applicants within the stipulated time, the trial Court shall invest it in a fixed deposit in any Nationalised Bank initially for a period of three years and thereafter, the said deposit shall be renewed from time to time till disposal of the Second Appeal.

ii) The Appellants/Applicants shall deposit in the trial Court a sum of Rs.500/- p.m. w.e.f. 01.01.2005. The amount payable for the month of January, 2005 shall be deposited on or before 31.01.2005. From February, 2005, the amount shall be deposited on or before 10th day of every calender month. If the Appellants/ Applicants commit any default in depositing the amount, the Respondents will be at liberty to apply for vacating the stay.

iii) As and when the monthly amounts are deposited by the Appellants/Applicants, the learned trial Judge will permit the Respondents to withdraw the said amount on furnishing security to the satisfaction of the trial Court.

4. It is made clear that the deposit of the amounts mentioned above and withdrawal thereof by the Respondents will be without prejudice to the rights and contentions of both the parties and subject to final order which may be passed in Second Appeal.

5. Rule is made absolute in the above terms with no order as to costs.